

This latter point is extremely important. Programming must be popular with children. As a matter of public policy, it does

of children. I fully expect this market to expand and grow. Nevertheless there are several factors which explain why it has taken some time for the market to develop.

First, as with the production of any program, the development of new children's programming is risky. Even in the context of general entertainment shows, most programs fail in the marketplace. For every success there are twenty failures. If you include the development process the failure rate increases, for every successful pilot there are fifty failures. Moreover, creating informational and educational programs for the commercial marketplace is a fairly new business for most program distributors. Large studios and producers are just figuring out

Two years ago, the supply of such programming was rather limited. Today the supply is expanding. The following is just an illustrative list of the new programming that has become available to local television stations since the Act was passed.

The World According to Kids: A news show directed at children. The program is a weekly half-hour series.

Zoo Life Magazine: A half-hour weekly show looking at the work done by zoos and aquariums to preserve endangered species.

The Edison Twins: An award winning half-hour weekly series combining science and adventure. The show has appeared on the Disney channel and is now available for broadcast syndication.

Teen Court: A half-hour reality show in which teenagers who have broken the law face a jury of their peers.

Beakman's World: A half-hour weekly children's program focusing on science.

Real News for Kids: A weekly half-hour program that presents news in a way kids can understand.

Scratch: A weekly half-hour magazine show for teenagers and young adults. This show first became available in 1991.

Hallow Spencer: A half-hour show with puppet characters designed for children ages two to eleven.

Wave Length: A half-hour talk show designed for teens and kids. Segments within the show discuss important problems such as drugs and teen pregnancy.

Independent television stations are just beginning to see the production community devote the necessary resources to the creation of programming that meets the educational and informational needs

issues such as drugs, teen pregnancy and dropping out of school. "Wave Length" will be aired in the 5:00 - 5:30 PM time slot. This is a very risky venture for our station. This time slot has been filled with general family entertainment, usually family oriented sitcoms. However, we believe the risk is worth taking. The program has been cleared on stations amounting to 75 percent of the country. Of the stations clearing the program 80 percent will broadcast the show at 4:30 PM or later. The show has been in development for over a year.

Second, there is the issue of exclusivity. While the list of quality educational and informational shows is steadily expanding.

a result, stations have to wait until these contracts expire in order to make room for new programming. Today, many of the pre-Children's Act contracts have expired or are up for renewal. As a result, stations are just beginning to have the flexibility to broadcast new programming that is required by the Act.

B. Local Programming

Apart from the syndication market, Independent stations are turning to local production to fulfill their statutory obligations. At my station, WUAB, we have devoted significant resources to creating programs that meet the informational and educational needs of children. Local production is expensive and very risky. WUAB has approximately five full time people specifically devoted to the development and production of children's programming. Next to my news department, more staff time is devoted to producing children's programming than any other type of programming.

The issue is not simply a question of financial resources. Local stations have traditionally devoted their local production capabilities to news and sports. Developing a quality children's program that will be both educational and attract an audience is a fairly new experience. Indeed, there are very few people in the industry with backgrounds in both education and programming. The industry is still learning how to create such programming on a local level.

Over time, local programming efforts may help increase the supply of good quality children's programming at the national level

as locally produced programs find their way into the syndication marketplace. For example, WGN, in Chicago, is producing "Energy Express," a sports and adventure program for teens which will be available for broadcast syndication soon. In the next few years, more and more of these programs will appear on television stations across the country. Some programming concepts will fail, while others succeed.

I believe my station's efforts to produce local children's programming exemplifies this trend in local program production. Every Saturday morning we produce and broadcast a five minute program entitled "Just for Kids." The show is hosted by individuals from the community who are invited to teach children something different each week. We have covered issues such as, avoiding strangers, gun safety, drugs and the D.A.R.E. program, local indian culture, animals and fossils. In April, 1992, we expanded the concept and produced three half-hour specials on the environment entitled, "No Time To Waste - Just For Kids." The program aired at 11:30 AM to coincide with hundreds of classes throughout the Cleveland metropolitan area so that 65,000 students could participate.

Our most popular effort has been the development of "Kidsland." Once a month, we produce a "Kidsland Special," a half-hour program of exclusively educational and informational content. Our "Kidsland" specials, which air in key kids time periods, have addressed such topics as the environmental benefits

of composting, local history, losing the world's rain forests, and a trip to the Cleveland symphony.

In September, 1992, we produced a prime-time hour special called "Smashed Trashed and Wasted." The program was geared towards the prevention to teenage drunk driving. We followed-up the program with outreach assemblies in local area schools, which included experts on the problems of driving while intoxicated.

Every Saturday morning we produce and broadcast a half-hour program called "LCCC Perspective." This show is produced in conjunction with Lorain County Community College and is written, hosted and produced by students under station supervision. The program is geared towards younger teens. We have dealt with health and education issues. A particularly touching story focused on the courage of a high school athlete who was diagnosed with terminal cancer.

Apart from specific children's shows, WUAB produces a general public affairs show entitled "43 Focus." This program emphasizes issues facing Cleveland. This one hour program airs on Saturday mornings. While the show addresses many issues, we periodically focus on children's issues. We have had programs on the Boy Scouts, Girl Scouts, Junior Achievement, unsafe toys, and lead paint poisoning.

We have also devoted a significant amount of time during our 10 O'clock News to children's issues. WUAB broadcasts "Ramona's Kids," a weekly feature during the news. Because it is broadcast later in the evening, we focus on issues of concern to the teenage

segment of the child audience. This news segment has covered issues such as teen pregnancy, homelessness, and the unfortunate crime of murder at the hands of children.

C. Short Segment Programming

The FCC's rules make it clear that short segment programming alone will not satisfy statutory requirements. Standard length programming is required. However, short segment programming can contribute towards satisfying a station's obligations. Short segment programming is especially effective at delivering specific

Presidents Council on Physical Fitness and the Partnership for a Drug Free America.

The Fox network has been a leader in including interstitial messages in its children's programming. These short segments have covered issues such as peer pressure, avoiding strangers, safety and the dangers of drugs.

D. Meeting Educational and Informational Needs Through General Entertainment Programming.

Both the 1990 Children's Act and the FCC's rules make it clear that television stations cannot rely on the existence of pro-social messages contained in general entertainment shows, or in popular cartoons, to satisfy all of the statute's requirements.

I simply disagree with those stations that attempt to list all episodes of their entertainment shows as meeting all of their statutory obligations. Stations err in assuming this meets all of their obligations under the act.

Nevertheless, the statute states that a station can rely on such programming in meeting its more generalized obligation to provide programming that meets the needs of children. In some instances, such programming can be relied upon to meet the specific educational and informational needs of children.

The Senate Report states that television stations can rely on such programming to meet part of its obligation.

The Committee believes that a broad range of programming will meet the standard of service to the child audience required by this Section. The Committee notes that general purpose programming can have an informative and educational impact (See "Children's Television

Programming," 96 FCC 2d 634 n. 39 (1984) and thus can be relied upon by the broadcaster as contributing to meeting its obligation in this important area.⁴

In fact, the Senate Report's citation to the FCC's 1984 Children's policy statement illustrates an important point. As the Commission noted "the real public interest in children's programming involves attracting the child audience to programming that imparts a public interest or pro-social message."⁵ In many instances, you can reach more children through traditional family oriented programming. Moreover, both the House and Senate Reports recognized that traditional children's entertainment shows such as "Fat Albert and the Cosby Kids," "Winnie the Pooh," and "The Smurfs" are examples of children's shows that are educational and informational.⁶

Thus, based on the legislative history of the 1990 Children's Act, it is incorrect to state categorically, that stations cannot rely on such programming to meet, at least in part, their statutory obligations. Children can and do learn from such programming. It

⁴Senate Committee on Commerce Science and Transportation, S. Rep. No. 227, 101st Cong., 2d Sess. at 23. See also, House Committee on Energy and Commerce, HR Rep. No. 385, 101st Cong., 1st Sess. at 17.

⁵Id. Analyzing data from its Children's Television Task Force, the FCC observed that traditional children's programs were seen by only half as many children as "Happy Days," an adult program. Thus, educational and informational messages embodied in such programs may provide a superior means for reaching the child audience.

⁶Report and Order, In the Matter of Policies and Rules Concerning Children's Television Programming, MM Docket No. 90-570 (April 12, 1991) at para 21., citing House Report at 17, Senate Report at 23.

would be a tragic mistake for the FCC or Congress to now conclude that such programming can never be relied on to meet the educational and informational needs of children. Moreover, it would be unfortunate for the Congress or the Commission to impugn the educational and informational value of programming simply because such programming is commercially successful.

I believe the statute requires a more detailed examination. There should be a nexus between the program and the "unique educational and informational" needs of the child audience. We must also look at the "special characteristics of various segments of the child population." Under this approach, there may be instances where generalized entertainment shows or animated children's shows do provide important information for children.

At WUAB, we carefully examine our general entertainment shows and their relationship to issues that address the educational and information needs of children. For example, the situation comedy "A Different World" had an episode devoted to racism in a segregated country club. Race relations are an important issue in Cleveland and the episode provided valuable insights. However, WUAB does not attempt to classify all of its family oriented shows as programming that meets the specific educational and informational needs of children. In fact, we generally do not count these shows as contributing towards our statutory obligations.

II. INDEPENDENT STATIONS ARE COMPLYING WITH THE 1990 CHILDREN'S TELEVISION ACT.

My station's commitment to the spirit of the 1990 Children's Television Act is not unique. Most Independent stations are, or will soon be, providing specific core programming designed to address the educational and informational needs of children. The sources for this programming are a combination of new syndicated product and locally produced programming. In addition, the industry is inserting short segment informational programming during its prime kids hours. The following exemplifies the efforts of Independent stations.

WPHL-TV, Ch. 17 in Philadelphia, broadcasts the "What's Up Now Network" every Sunday morning at 9 AM -- a half-hour news show specifically designed for kids. Also, in conjunction with three

events and history; 2)"Stay in School," featuring Michael Adams of the Washington Bullets⁷; 3)"What's Your Sign," a series of spots featuring hearing-impaired students produced in conjunction with Galludet University in Washington; and 4)"Hola Amigos," a series of Spanish language educational spots.

KCOP-TV, Channel 13 in Los Angeles, produces a one hour program called "L.A. Kids" which airs every Saturday from 6:00 - 7:00 AM. The show is produced in cooperation with the Los Angeles Unified School District and targets kids age 9-14. It addresses health and social concerns, introduces the audience to positive role models and uses school children to address issues of importance to kids.

KPHO-TV, Channel 5 in Phoenix, broadcasts "Scratch" on Sundays at 11:30 AM. "Beakman's World" airs on Saturdays and Sundays at 4:00 PM. The station also produces a short segment program called "Insights." These segments deal with issues such as self-esteem, education, crime and drug abuse.

KCPQ-TV, Channel 13 in Tacoma, has produced half-hour children's specials on the Seattle International Children's Festival. The station has produced half-hour specials on the environment, "Earth Song I" and "Earth Song II," which were designed for children. In addition, the station has aired a half-hour locally produced special called "Colors of Harmony" showing

specials have already been broadcast and a third is planned for 1993. Additional specials include "Academic All-Americans," "Ghostwriter" and "Skin Deep," a program on discrimination. KCPQ also broadcasts the syndicated programs "Romper Room" (Mon -Friday

confronting teenagers. During its kids shows, KTVT produces a series of vignettes focusing on educational issues for kids. The station also produces "Kid-Cam 11" featuring stories of kids produced by kids. Throughout its kids programming the station broadcasts numerous PSAs directed at children.

WAWS-TV, Channel 30 in Jacksonville, Florida, broadcasts a quality children's programs on Saturday mornings including "Not Just News" (a news show for kids) and "What's Up Network for Kids" (created for children ages 6-12). In addition, the station produces 30 second vignettes called "Kids Bits" throughout its children's programming. These segments focus on health and safety tips and are hosted by the station's kids-club host Safari Sam.

I could provide the Subcommittee with countless examples of stations providing specific programs that are designed to meet the educational and informational needs of children. The stations listed above are just a few examples of overall industry practices. For every "bad actor" there are numerous stations meeting or exceeding their obligations.⁸ The point is that most in the industry are taking their responsibilities seriously

III. ECONOMIC REALITIES AND THE DEVELOPING MARKET FOR "CORE" CHILDREN'S PROGRAMMING.

The Subcommittee must recognize that commercial broadcasters exist in a volatile economic climate. During the 1970s, America saw an increase in the amount of informational programming directed specifically at children. This occurred at a time when government fostered children's programming. More importantly, it occurred at a time when the off-air television industry was relatively stable. Margins were higher. The cable industry, our chief competitor, was still a nascent industry.

With passage of the 1990 Children's Television Act there has been a rebirth of the government's interest in children's programming. However, economic environment has changed radically. Broadcast television stations are no longer the economic "fat cats" of the communications industry. From 1987-1991 local broadcast television advertising realized a nominal compound annual growth rate of only 2.4 percent.⁹ During this time period advertising on cable grew at a compound annual growth rate of 14.9 percent.¹⁰ Advertising on broadcast television is expected to grow at a compound annual rate of 6.4 percent by 1996.¹¹ Cable will grow at twice that rate, at 12.9 percent.¹² Moreover, competition will

⁹Veronis Suhler & Associates Communications Industry Forecast, 1992 at 81.

¹⁰Id. at 114.

¹¹Id. at 81

¹²Id. at 114.

increase from proposed technologies such as DBS and perhaps the

The economic pressures on the broadcast industry mean that commercial stations simply cannot afford to keep programming on the air which is not viewed. The best solution to this problem is the

discretion to explore formats that achieve the statute's goals while at the same time attracting audiences and advertiser support.

V. CONCLUSION

I believe the 1990 Children's Act, in general, has been successful in stimulating new "core" programming that meets the educational and informational needs of children. While there are examples of stations that "push" the limits of the statute, most television stations are ready and willing to comply with the law.

I firmly believe that the programming community and broadcasters will develop children's shows that will meet the specific educational and informational needs of children and also be presented in formats that attract viewers. All the incentives are in place. The Act has created the demand. New product has been produced. Program contracts entered into prior to the Children's Act are expiring, creating more shelf space for new programs. Programs entering the market, such as "Beakman's World," meet these demands and appear to be commercially successful.

The FCC has just commenced a proceeding looking at children's programming. INTV supports the FCC's actions. We need to examine how stations can best meet their obligations under the Act. At our most recent convention, we spent considerable time with member stations focusing on the requirements of the statute. In this regard INTV intends to monitor the progress of its members and their compliance with the new children's Act. Moreover, INTV intends to act as a clearinghouse for information relating to

programming that qualifies as meeting the educational and informational needs of children.

On balance, we have an opportunity to create an economic climate that will promote the development of top quality children's programming consistent with statutory requirement. The Act has created an environment where educational value and commercial success are no longer mutually exclusive concepts. Together, we can achieve the statute's goal -- serving this nation's children with quality informational and educational programming.

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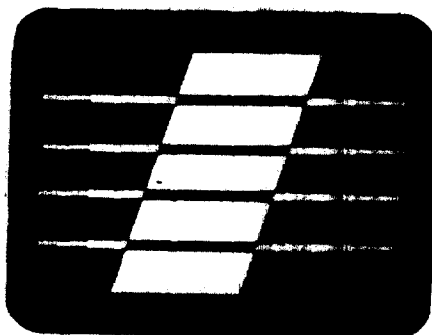
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EXHIBIT 2

INTV



PRIMER

on

CHILDREN'S TELEVISION REGULATION

**A COMPREHENSIVE GUIDE TO
THE NEW FCC RULES AND REGULATIONS
IMPLEMENTING THE CHILDREN'S TELEVISION ACT OF 1990**

**PREPARED FOR INDEPENDENT TELEVISION STATIONS BY THE
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INTRODUCTION

INTV's *Primer on Children's Television Regulation* has been prepared to assist independent television stations comply with new FCC rules governing children's television programming and advertising. On April 9, 1991, the FCC adopted new rules to implement the Children's Television Act of 1990, 47 U.S.C. §§ 303a, 303b, and 394 (hereinafter "the Act"). The Act limits the amount of advertising in children's television programming and requires the FCC to consider the extent to which commercial television stations have served the educational needs of children in their programming. This *Primer* is designed to answer as many questions as possible about the requirements of the Act and the new rules adopted by the Commission.

This "1991 Edition" of the *Primer* reflects changes and clarifications to the new rules adopted by the Commission on reconsideration of its original rules. It supersedes the "Special Advance Edition" of the *Primer* published in May, 1991. As anticipated, the Commission made no drastic revisions to its new rules. However, it did clarify the rules in a number of very significant respects. A summary of significant changes and clarifications follows this introduction. Also, please, note that a number of new questions and answers have been added to the *Primer*. Consequently, the question numbers do not correspond with the question numbers